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COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 64th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 9 March 1994, at 10 a.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

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Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus (continued)

The meeting was called to order at 10.25 a.m.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 14) (continued) (E/CN.4/1994/L.14/Rev.1)

Draft resolution on measures to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1994/L.14/Rev.1)

1. Mr. CANKOREL (Observer for Turkey) said that, on 18 February 1994, the Commission had approved the seventh preambular paragraph of draft resolution E/CN.4/1994/L.14. Further action on that draft resolution had been postponed so that negotiations could be held with regard to the wording of operative paragraph 4. To that end, his delegation had carried out lengthy consultations with the countries and regions concerned.

2. As a result of those consultations, he wished to propose a new version of operative paragraph 4 to read: "Requests the Special Rapporteur to examine according to his mandate incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, anti-Semitism and related intolerance, as well as governmental measures to overcome them, and to report on these matters to the Commission at its fifty-first session".

3. The previous day, his delegation had circulated the text of the new paragraph and was convinced that it would have broad support. While the new version did not satisfy all the concerns expressed during the negotiations, it did contain, in a balanced manner, all the essential elements covered by the Secretary-General's report (E/CN.4/Sub.2/1991/11).

4. He suggested that the Commission should begin by considering the new version of operative paragraph 4. It was his understanding that any form of discrimination against Blacks, Arabs and Muslims should be seen in the light of the title of the draft resolution and the mandate of the Special Rapporteur, as set forth in Commission resolution 1993/20.

5. Mr. FASEHUN (Nigeria) said that he had expressed reservations the previous day with regard to the wording of the new version of operative paragraph 4, which did not take account of his delegation's concerns. He had understood that further consultations on the draft resolution were to have been held. Since there had been no such consultations, he proposed that the word "negrophobia" should be inserted after the word "xenophobia" in operative paragraph 4.

6. Mr. PADYA (Mauritius) requested that a separate vote be held on each new proposal, the change proposed by the representative of Turkey and the proposed Nigerian amendment. In principle, his delegation was opposed to the listing of various forms of discrimination in that it tended to create a hierarchy of violations and to imply that those absent from the list were less important.

7. Mr. VELTHEIM (Finland), speaking on behalf of the Nordic countries which were sponsors of the draft resolution, said that the Special Rapporteur's mandate was a broad one which covered racism, racial discrimination,

xenophobia and related intolerance wherever it occurred. The fact that particular groups were listed in operative paragraph 4 would not necessarily exclude other groups.

8. Mr. MALGINOV (Russian Federation) said that his delegation had been a sponsor of the initial version of the draft resolution. However, as a result of subsequent revisions, the text had become less balanced. His delegation had suggested that reference should be made in the draft resolution to "aggressive nationalism", but that proposal had been opposed by some of its co-sponsors. In the circumstances while continuing to support the general thrust of the draft resolution, it no longer wished to be a sponsor.

9. Mr. VERGNE SABOIA (Brazil) said that the change proposed by the representative of Turkey included the basic idea of eliminating all forms of discrimination and would thus allow the draft resolution to be adopted by consensus, as a result of which it would have more impact. Listing the various types of discrimination might well defeat the main purpose of the draft resolution. The text as revised by the representative of Turkey already covered the concern of the representative of Nigeria.

10. Mr. PEREZ NOVOA (Cuba) said that his delegation, which supported the draft resolution and had participated in the consultations thereon, endorsed the proposed Nigerian amendment which would strengthen certain aspects of operative paragraph 4.

11. Mr. FASEHUN (Nigeria) said that, while the fight against racism and racial discrimination was universal, racism was, historically speaking, a matter of discrimination against black people, i.e., negrophobia. He was unwilling to withdraw his amendment and requested a separate vote on the proposal.

12. At the request of the representative of Cuba, a vote was taken by roll-call on the Nigerian amendment.

13. Germany, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Bangladesh, Barbados, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Cyprus, Ecuador, France, Gabon, Germany, Guinea-Bissau, Hungary, India, Indonesia, Iran (Islamic Republic of), Italy, Kenya, Lesotho, Libyan Arab Jamahiriya, Malawi, Mauritania, Mexico, Nigeria, Pakistan, Peru, Poland, Republic of Korea, Romania, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay

Against: None

Abstaining: Australia, Austria, Brazil, Bulgaria, Canada, Finland, Japan, Malaysia, Mauritius, Netherlands, Russian Federation, United States of America, Venezuela.

14. The Nigerian amendment was adopted by 39 votes to none, with 13 abstentions.

15. The CHAIRMAN invited the Commission to vote on the revised version of operative paragraph 4 of draft resolution E/CN.4/1994/L.14/Rev.1, as read out by the observer for Turkey and as amended by the Nigerian proposal that had just been adopted.

16. Operative paragraph 4 of draft resolution E/CN.4/1994/L.14/Rev.1, as orally revised and amended, was adopted by 51 votes to none, with 2 abstentions.

17. The CHAIRMAN said that, at a previous meeting, the representative of the Sudan had proposed an amendment to operative paragraph 8.

18. Mr. RUAI (Sudan) withdrew his amendment.

19. Mr. KHOURY (Syrian Arab Republic), speaking in explanation of vote before the voting, said that, since the Arabs were Semites, they like other groups were concerned about anti-Semitism.

20. Mr. DAUFRESNE de la CHEVALERIE (France) said that his delegation would vote in favour of draft resolution E/CN.4/1994/L.14/Rev.1 although it hoped that the use of innovative language in the text and the establishment of a list of forms of discrimination would not create a precedent.

21. Draft resolution E/CN.4/1994/L.14/Rev.1 as a whole, as orally revised and amended, was adopted without a vote.

22. Mr. BROTODININGRAT (Indonesia) said that his delegation had joined the consensus even though it failed to understand the difference between discrimination against Blacks and negrophobia. In fact, it found operative paragraph 4 quite incomprehensible.

23. Mr. CHABEN (Uruguay) said that he fully agreed with the views of the representatives of France and Brazil. However, his delegation had voted in favour of the Nigerian amendment because operative paragraph 4, as revised by the observer for Turkey, already listed specific groups that were subject to discrimination and there was no harm in adding another item thereto.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIFTH SESSION (agenda item 17) (continued) (E/CN.4/1994/L.30/Rev.1; E/CN.4/1994/2, chapter I, section B, draft decision 5)

Draft resolution on human rights and the environment (E/CN.4/1994/L.30/Rev.1)

24. Mr. PEREZ NOVOA (Cuba), introducing the draft resolution on behalf of its sponsors, which had been joined by the observer for Zimbabwe, said that it sought to make a modest contribution to the efforts of the various organizations in the United Nations system to deal with the negative effects of environmental damage on the enjoyment of human rights, particularly the right to life.

25. Environmental problems had hitherto been examined in various forums in terms of their close relationship with economic growth and development. There was no doubt that all States, especially the developed countries, had a great responsibility to promote the right to life in an environmentally healthy world, through the protection and rational use of natural resources.

26. On the basis of extensive consultations, he thought that the draft resolution met the requirements of all delegations and hoped that it could be approved without a vote.

27. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

28. Draft resolution E/CN.4/1994/L.30/Rev.1 was adopted.

29. The CHAIRMAN said that, as a result of the adoption of draft resolution E/CN.4/1994/L.30/Rev.1, draft decision 5, recommended by the Sub-Commission, was superseded.

30. Mr. MARUYAMA (Japan) said that preservation of a healthy environment was one of the major challenges facing the international community. His Government had been very active in that regard and had made a major contribution to the United Nations Conference on Environment and Development (UNCED). However, draft resolution E/CN.4/1994/L.30/Rev.1 referred to a number of issues which fell outside the Commission's competence. While recognizing that environmental issues were related to the enjoyment of human rights, his delegation was unconvinced that the Commission was qualified to deal with them and, if the draft resolution had been put to the vote, it would have abstained. It was, nevertheless, looking forward with interest to the Sub-Commission's Special Rapporteur's final report on the subject.

31. The CHAIRMAN said that the Commission had thus completed item 17 of its agenda.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS;

(e) INTERNATIONAL YEAR OF THE FAMILY

(agenda item 11) (continued) (E/CN.4/1994/L.63/Rev.1, L.71, L.72/Rev.1 and L.75)

Draft resolutions on human rights and mass exoduses (E/CN.4/1994/L.63/Rev.1)

32. Mr. TROTTIER (Canada), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Cameroon, Germany, Netherlands and the United Kingdom of Great Britain and Northern Ireland and the observers for Denmark, Ireland, Greece, Luxembourg, Slovakia and Sweden, said that very productive discussions had been held with interested delegations on the draft resolution. The results were to be found in the revised text, which preserved the integrity of the previous resolution and took account of the concern expressed by delegations. He hoped that, as in previous years, the draft resolution could be adopted without a vote.

33. Draft resolution E/CN.4/1994/L.63/Rev.1 was adopted.

Draft resolution on civil defence forces (E/CN.4/1994/L.71)

34. Mr. DEMBINSKI (Poland), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegation of Cyprus, said that the report of the Secretary-General (E/CN.4/1994/38) and the comments in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26) constituted a sufficient basis for evaluating the problem of civil defence forces and establishing new guidelines concerning a desirable framework for such forces.

35. Since the report of the Working Group departed from the concept of the right to self-defence, the sponsors had added a new first preambular paragraph. Moreover following additional consultations, they had made a number of further changes. In the second line of operative paragraph 2, after the word "establish", the words ", where appropriate," should be inserted. In the third line of the paragraph, after the word "them", the words "within the framework of domestic law," should be added.

36. He hoped that the draft resolution could be adopted by consensus. The Commission would thus be able to conclude its debate on civil defence forces and the issue could be deleted from the agenda for its next session.

37. Draft resolution E/CN.4/1994/L.71, as orally revised, was adopted.

Draft resolution on internally displaced persons (E/CN.4/1994/L.72/Rev.1)

38. Mr. STROHAL (Austria), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Australia, Canada, Cyprus, France, Nigeria and the United States of America and the observers for Latvia and Zambia, said that extensive consultations had taken place with all interested delegations and the revised text incorporated the results thereof. The text was self-explanatory and the sponsors hoped that it could be adopted without a vote.

39. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

40. Draft resolution E/CN.4/1994/L.72/Rev.1 was adopted.

Draft resolution on the effective functioning of the various mechanisms established for supervision, investigation and monitoring of the implementation of the treaty obligations entered into by States in regard to human rights and of the existing international standards in this regard (E/CN.4/1994/L.75)

41. Mr. MORA GODOY (Cuba), introducing the draft resolution, said that his delegation had held consultations on the text. It had always been flexible and intended to continue doing so. He recalled that the Commission had adopted a similar draft resolution at its preceding session.

42. In response to a question by Mr. PEREZ NOVOA (Cuba), the CHAIRMAN suggested that the Cuban delegation should continue to hold consultations on the text with interested parties. In the meantime, the Commission would defer action on the draft resolution.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (continued) (E/CN.4/1994/L.67)

Draft resolution on advisory services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights (E/CN.4/1994/L.67)

43. Mr. FLUGGER (Germany), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Angola, Canada, Chile, Malawi and the United States of America and the observers for Greece, Luxembourg, Philippines, Portugal and Zambia, said that the negotiations on the text had been conducted in a very constructive manner and the sponsors had been able to accommodate the views expressed to them. As a result, there were a number of changes to be made to the text.

44. In the fourth line of the fourth preambular paragraph, after the words "relevant bodies", the words "involved in the field of human rights" should be added. At the end of the fifth preambular paragraph, after the word "disturbances", the words "with the consent of the Governments concerned" should be added. It would be remembered that he had already indicated those revisions to the Commission at a previous meeting.

45. In operative paragraph 4, second line, the words "in a manner compatible with other development objectives" should be inserted after the word "resources". He hoped that the Commission would be able to adopt the draft resolution without a vote.

46. Draft resolution E/CN.4/1994/L.67, as orally revised, was adopted.

47. Mr. KHOURY (Syrian Arab Republic) said that his delegation was not satisfied either with the manner in which the draft resolution on the provision of assistance to Somalia (E/CN.4/1994/L.73) had been adopted or with its contents. While it referred to the provision of assistance to Somalia, it did not actually give that country anything. The warring Somali factions were currently meeting at Cairo in an attempt to reach an agreement and end the conflict and an effort was being made to support the authority of the central Government. The resolution did not address those elements at all and was not up to date with the events that were taking place. All in all, it did not seem that the provision of assistance to Somalia was one of the objectives of the resolution's sponsors.

48. The CHAIRMAN said he had been requested to read out the following statement on the question of human rights in Romania:

"The Commission on Human Rights,

Takes note with appreciation of the report by the Secretary-General submitted pursuant to Commission resolution 1993/72, including the addendum to it containing the report by Mr. Joseph Voyame, Executive Director of the Romanian Human Rights Institute,

Welcomes the further steps taken by the Government of Romania to establish a democratic and pluralist system of government based on respect for human rights and the rule of law and its commitment, manifested inter alia by its accession to the Council of Europe, to fulfil the obligations under the international conventions and instruments to which it is a party,

Notes the will of the Government of Romania to overcome remaining shortcomings as regards the implementation of constitutional and legislative rules by national and local authorities, inter alia relating to the protection of persons belonging to minorities,

Expresses its appreciation of the advisory services provided to the Government of Romania by the Centre for Human Rights and endorses, as recommended in the addendum to the Secretary-General's report, the continuation of these services, especially in the fields of training and education for the good functioning of the governmental and non-governmental institutions dealing with the promotion and protection of human rights, as provided by the Programme signed by the Centre and the Government in Bucharest on 23 September 1991, including the organization in cooperation with the Council of Europe of a series of seminars to train Romanian magistrates and lawyers in this field as well as a seminar on minorities,

Requests the Secretary-General to present to the fifty-first session of the Commission on Human Rights a final evaluation of the fulfilment of the Programme of Advisory Services and invites the Government of Romania to provide the necessary information to this effect, including information on the progress achieved in overcoming remaining shortcomings."

49. Recalling an agreement reached by the Commission at a previous meeting, he invited the observer for El Salvador to make a statement concerning the agenda item.

50. Mr. MENDOZA (Observer for El Salvador) said he regretted that his delegation had been unable to participate in the Commission's meeting when resolution E/CN.4/1994/L.58/Rev.1 on El Salvador had been adopted. His Government acknowledged the importance of that resolution, which was concerned with the provision of the technical assistance his country required to continue strengthening human rights.

51. The resolution recognized the substantial improvement in human rights in El Salvador, supported the Government's efforts to consolidate peace, ensure full respect for human rights, and achieve the reconstruction of the country and recognized the dynamic nature of the events taking place there, including the preparations for the forthcoming general elections. While the Commission had expressed some concern about certain acts of violence against members of various political parties - a concern which his Government shared - it had also expressed its satisfaction with regard to the measures his Government had adopted to deal with that situation.

52. His Government was also called upon to continue strengthening the judicial system with a view to protecting human rights by adopting certain measures proposed by various Salvadorian political organizations. He was pleased to inform the members of the Commission that the Act on Private Security Services had been adopted prior to the adoption of the Commission's resolution.

53. He did not understand why operative paragraph 1 expressed regret that circumstances did not permit the Independent Expert to visit El Salvador. On 7 January 1994, the Salvadorian mission had sent fax No. 009-94 to the Centre for Human Rights, consenting to such a visit. At the Commission meeting held on 1 March 1994, the Independent Expert himself had referred to that fax. It was regrettable that no account of it had been taken in the resolution.

54. The reporting procedure set out in operative paragraph 12 was an integral one which recognized the role of the Government of El Salvador in ensuring thoroughness and objectivity. El Salvador had always cooperated with the Commission and would continue to do so in the new stage of receiving the benefit of advisory services. His Government was honoured that the resolution recognized its democratization process and its effective guarantee of human rights in a situation of peace. As recently reported in the press, two Salvadorian Ministers had expressed their satisfaction with the draft resolution and welcomed the provision of advisory services.

55. The CHAIRMAN said that the Commission had thus completed item 19 of its agenda.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WOPLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 12) (continued) (E/CN.4/1994/L.40, L.77-84, L.85/Rev.1, L.86/Rev.1, L.87, L.90, L.91, L.93/Rev.1, L.95-97, L.99, L.100, L.101/Rev.1 and L.102)

56. The CHAIRMAN read out the following statement of acknowledgement following the statement by the delegation of Sri Lanka:

"The Commission acknowledges the statement of the representative of Sri Lanka concerning the situation of human rights in Sri Lanka, and welcomes the Government's continuing cooperation with the Commission.

"The Government of Sri Lanka has outlined a programme of work which is to be implemented in the course of the coming year which, inter alia, includes commitments to the further revision of the Emergency Regulations; the promotion of accountability through the vigorous undertaking of investigations, and the institution of prosecution against human rights violators; the taking of all possible steps to prevent injury to civilians in the course of military operations; and implementation of the recommendations made by the Working Group on Enforced or Involuntary Disappearances.

"The efforts of the Government to arrive at a negotiated political settlement to the problems in the north and the east of the country should be encouraged.

"As requested by the delegation of Sri Lanka, this acknowledgement will be included in the final report of the Commission and the statement of the delegation of Sri Lanka would be included in its entirety in the summary records of this session."

57. He then read out the following agreed statement on the situation of human rights in East Timor:

"The Commission on Human Rights discussed the human rights situation in East Timor. The Commission notes with concern continuing allegations of human rights violations in East Timor, while recognizing the positive measures taken by the Government of Indonesia to improve the situation.

"The Commission recalls the undertakings by the Government of Indonesia to promote human rights in East Timor and those contained in the consensus Chairman's Statement at its forty-eighth session on the matter, and stresses the need to take further steps towards its implementation.

"A matter of preoccupation to the Commission is the incomplete information concerning the number of people killed and the persons

still unaccounted for as a result of the violent incident at Dili on 12 November 1991. While acknowledging the efforts made to account for those persons, the Commission calls upon the Government of Indonesia to continue its investigation on those still missing and the circumstances surrounding the matter.

"The Commission expresses the hope that the cooperation between the International Committee of the Red Cross (ICRC) and the Government of Indonesia will continue. It calls upon the Indonesian authorities to ensure that those East Timorese in custody are treated humanely, and that their rights are fully respected, and to take further appropriate measures aimed at the early release of those convicted.

"The Commission is encouraged by the greater access recently granted by the Indonesian authorities to human rights and humanitarian organizations as well as to the international media, and calls upon them to continue this policy of expanding access.

"The Commission welcomes the undertaking by the Government of Indonesia to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit East Timor and to submit his report to its fifty-first session. In the same spirit, the Commission takes note of the intention of the Government of Indonesia to continue to cooperate with other relevant thematic special rapporteurs and/or working groups, and to invite them to visit East Timor when necessary for the fulfilment of their duties.

"The Commission welcomes the current dialogue between Indonesia and Portugal under the auspices of the Secretary-General of the United Nations and encourages him to continue his good offices in order to achieve a just, comprehensive and internationally acceptable settlement to the question of East Timor. In this context, the Commission stresses the importance of the understanding reached on confidence-building measures between the two Governments and welcomes the recent mission undertaken by Mr. Francesc Vendrell as representative of the Secretary-General in order to promote further progress in that dialogue.

"The Commission requests the Secretary-General to keep it informed of the situation of human rights in East Timor and will consider it at its fifty-first session."

Draft resolution on the situation of human rights in Jammu and Kashmir (E/CN.4/1994/L.40)

58. The CHAIRMAN said that the delegation of Pakistan had asked the Commission to defer taking action on draft resolution E/CN.4/1994/L.40 until the following meeting.

59. Mr. SHAH (India) asked what was the reason for that deferral.

60. Mr. AKRAM (Pakistan), confirmed by Mr. NASSERI (Islamic Republic of Iran), said that the deferral had been requested by the representative of the

Islamic Republic of Iran so that further consultations could be held. He asked whether the Indian delegation was opposing that request, which was not out of the ordinary.

61. Mr. SHAH (India) said that it would be helpful to know whether the purpose of the consultations was to decide on further amendments to the draft resolution or on its withdrawal.

62. Mr. NASSERI (Islamic Republic of Iran) expressed the hope that there would be no further debate on the question, which his request for a deferral had been intended to avoid.

63. Mr. SHAH (India) said that, in view of the last-minute nature of the Pakistani request, he wished to request a suspension of the meeting so that his delegation could engage in consultations.

The meeting was suspended at 12.05 p.m. and resumed at 12.10 p.m.

64. Mr. SHAH (India) said that, in the absence of any convincing reason to defer action, his delegation would have preferred to proceed with the vote and thus expedite the Commission's work.

65. The CHAIRMAN said that, if he heard no formal objection, he would take it that voting on draft resolution E/CN.4/1994/L.40 would be deferred until the following meeting.

66. It was so decided.

Draft resolution on cooperation with representatives of the United Nations human rights bodies (E/CN.4/1994/L.77)

67. Ms. HEVESI (Hungary), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada, Chile and the United States of America and the observer for Haiti, said that resolutions addressing the issue of intimidation and reprisals against those who sought to cooperate with the representatives of the United Nations human rights bodies had traditionally been adopted without a vote. The draft resolution before the Commission was an updated version of its resolution 1993/64. She hoped that, as in previous years, it would be adopted without a vote.

68. Draft resolution E/CN.4/1994/L.77 was adopted without a vote.

Draft resolution on the situation of human rights in Cuba (E/CN.4/1994/L.79)

69. Mrs. FERRARO (United States of America), introducing the draft resolution on behalf of its sponsors, which had been joined by the observer for El Salvador, said that Cuban life was dominated by the Government's heavy hand at every level, through the ubiquitous secret police, neighbourhood committees and Communist Party organizations. The Government of Cuba continued to deny its people the fundamental rights set forth in the Universal Declaration of Human Rights, including freedom of association, assembly, expression, religion and a free press (last preambular paragraph).

70. The fifth preambular paragraph of the draft resolution noted with deep regret the continued failure of the Cuban Government to allow the Special Rapporteur to enter the country in accordance with his mandate. It was deplorable that a member of the Commission on Human Rights should so flout its responsibilities to the Organization. She drew attention also to operative paragraph 4 of the draft resolution, which expressed profound regret that the Government of Cuba had again refused to respond to the Special Rapporteur's reports on human rights violations and expressed particular concern at its intolerance of freedom of speech and assembly.

71. Operative paragraph 5 called upon the Government of Cuba to carry out the eight measures recommended by the Special Rapporteur to bring the observance of human rights and fundamental freedoms in Cuba up to universally recognized standards and to end all violations of human rights, including the detention and imprisonment of human rights defenders.

72. The Special Rapporteur had demonstrated that the human rights violations in Cuba were of sufficient magnitude to be of concern to the entire international community. Moreover, the resolution's sponsors were from every regional group. It was particularly interesting to note the strong support of a number of countries which, until recently, had had communist regimes. They were in a position to understand the emptiness of Cuban rhetoric seeking to excuse its human rights abuses.

73. In the most recent example, Sebastián Arcos, one of Cuba's most respected human rights activists had been severely beaten in jail and had not been seen since. The Commission had an obligation to speak out against Cuba's continuing human rights violations. She hoped the draft resolution would be adopted without a vote.

74. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

75. Mr. PEREZ NOVOA (Cuba) said he would like some clarification of the word "perennial", since the draft resolution specified an additional one-year mandate. He also wondered why no figures for costs had been given.

76. Mr. LEBAKINE (Acting Secretary of the Commission) explained that the draft resolution was considered to be within the scope of perennial activities because it provided for the continuation of an already existing mandate.

77. Mr. PEREZ NOVOA (Cuba), speaking in explanation of vote before the voting, said that, once again, the Commission had before it a draft resolution similar to all the draft resolutions that the United States Government had attempted to impose on it since 1987. His Government had always cooperated fully and sincerely with the Secretary-General and with all universal, impartial and non-discriminatory human rights mechanisms and procedures.

78. Since 1991, however, the views of the United States Government had been widely adopted, even by the Governments of countries that had once maintained

independent foreign policies, in what had become a unipolar world. Since then, and only since then, had Cuba been included in the Commission's agenda and a Special Rapporteur appointed. For eight years, his delegation's position had been clear-cut and firm and it would not be moved by false accusations and propaganda.

79. The concerns expressed in the resolution were not legitimate human rights concerns. A Government which ignored resolutions adopted by the vast majority of Member States - including those adopted by the General Assembly in two consecutive years, against the economic, commercial and financial embargo imposed upon his country - was in no position to instruct others to comply with resolutions which had been adopted by a slight majority and in response to pressure. The concern it expressed at non-compliance with such resolutions lacked credibility.

80. That Government had no right to criticize his Government for being uncooperative when it showed no flexibility whatsoever in negotiations on resolutions that did not serve its own interests. It could hardly speak of concern for democracy when it had financed, supported and installed the most repressive regimes and cruellest dictatorships; when it could not guarantee the most basic rights of its own people; and when it attempted to starve another people into submission.

81. The United States of America had begun its criminal blockade long before Cuba had declared itself socialist and continued to maintain it even after the disappearance of the Soviet Union, the socialist world and the cold war. At a time when many calls had been heard for change, the United States obstinately pursued its cold-war policy towards Cuba.

82. His Government's own concern was to further the development of the Cuban people and promote its welfare, health and living conditions. Above all, it dedicated its efforts and resources to maintaining the independence and sovereignty of Cuba, but it also cared about the fate of all other peoples and the true defence of human rights throughout the world; it was that genuine concern which guided his Government's participation in all United Nations human rights activities in a broad spirit of cooperation, flexibility, impartiality and objectivity. Even in the current difficult circumstances, his Government had not failed to show solidarity with peoples in need, to raise its voice in defence of just causes and to demonstrate its firm political determination to comply with the commitments that it had entered into in its international relations.

83. Cuba would never refuse dialogue and cooperation on a truly impartial and objective basis that respected its sovereign equality. As it had nothing to hide, his Government had decided to invite a group of Nobel Prize laureates to visit the country and to see Cuban reality for themselves. With a view to promoting dialogue and frank discussions, Cuba would be holding a meeting in April 1994 entitled "Emigration-Nation", which important representatives of the Cuban emigration would attend to debate problems of common interest for the benefit of the Cuban people.

84. Cubans were a free and sovereign people with the right to choose their own path and seek their own solutions to their problems. In the past, Cuba

had been enslaved and colonized; it had since become a sovereign and independent State, and that would never be negotiable. His delegation would thus vote against draft resolution E/CN.4/1994/L.79.

85. At the request of the representative of Cuba, the vote was taken by roll-call.

86. Uruguay, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Australia, Austria, Bulgaria, Canada, Chile, Costa Rica, Cyprus, Ecuador, Finland, France, Germany, Hungary, Italy, Japan, Mauritius, Netherlands, Pakistan, Poland, Republic of Korea, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against: China, Cuba, Guinea-Bissau, India, Indonesia, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Sudan, Syrian Arab Republic.

Abstaining: Angola, Bangladesh, Barbados, Brazil, Cameroon, Colombia, Côte d'Ivoire, Gabon, Kenya, Lesotho, Malawi, Malaysia, Mauritania, Mexico, Nigeria, Peru, Sri Lanka, Togo, Tunisia, Venezuela.

87. Draft resolution E/CN.4/1994/L.79 was adopted by 24 votes to 9, with 20 abstentions.

Situation of human rights in the territory of the former Yugoslavia: Violations of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) (E/CN.4/1994/L.80)

88. Mr. SPIEGEL (United States of America), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegations of Canada, Chile, Finland, Germany, Guinea-Bissau, Netherlands and Romania and the observers for Belgium, the Czech Republic, Iceland, Liechtenstein, Luxembourg, New Zealand, Portugal, Slovakia, Spain and Switzerland, said that the draft resolution had been prepared as a result of lengthy consultations, during which efforts had been made to produce an accurate and balanced text that addressed all the issues.

89. The draft resolution condemned all violations of human rights by all sides, including the use of military force against civilians, the besieging of cities, the intentional destruction of places of worship and the deliberate impeding of the delivery of food and other supplies essential for the civilian population. It also condemned "ethnic cleansing", wherever it took place, and urged that it be ended immediately and its effects reversed. It demanded the immediate release of all persons arbitrarily detained and immediate access by the International Committee of the Red Cross (ICRC) to all those places of detention which remained in operation.

90. It expressed the Commission's deep concern at the traumatic impact of the armed conflict on the children of the area and its outrage that the systematic practice of rape continued to be used as a weapon of war, an act which, the Commission recognized, constituted a war crime. It welcomed the establishment of the International Tribunal for prosecuting violations of international humanitarian law in the territory of the former Yugoslavia and urged all States, United Nations bodies and informed intergovernmental and non-governmental organizations to cooperate fully with the Tribunal.

91. As its title implied, the draft resolution did not deal solely with the situation in Bosnia and Herzegovina; it made mention of the worrisome human rights situation in Croatia and in the "Federal Republic of Yugoslavia (Serbia/Montenegro)", and it also paid particular attention to the dangerous situation in Kosovo. It noted with appreciation the observations of the Special Rapporteur regarding the human rights situation in the Republic of Slovenia and recommended that the Republic of Slovenia should be excluded from the mandate of the Special Rapporteur in the future.

92. It noted with concern, however, that many of the recommendations which the Special Rapporteur had made over the past year and a half had not been fully implemented. The draft resolution extended the mandate of the Special Rapporteur for another year and requested the Secretary-General to provide him with the necessary assistance to appoint field staff in the area to provide first-hand reports on the situation of human rights there.

93. Following consultations among the sponsors, he had two small changes to make to the text. At the end of the eleventh preambular paragraph, the words "the International Conference on the Former Yugoslavia, its co-Chairmen and Steering Committee" should be redrafted to read: "including the co-Chairmen and members of the Steering Committee of the International Conference on the Former Yugoslavia"; while operative paragraph 24 should read: "Notes with interest the proposal of the Working Group on Enforced or Involuntary Disappearances to establish a special procedure concerning the question of enforced disappearances in the territory of the former Yugoslavia (E/CN.4/1994/26/Add.1) and requests the Working Group, represented by one of its members, to cooperate as appropriate with the Special Rapporteur in dealing with this issue". He hoped that the draft resolution could be adopted by consensus.

94. Mr. SIRAJ (Malaysia), speaking in explanation of vote before the voting, said that, although his delegation had serious reservations about the draft resolution, it would not stand in the way of its adoption without a vote.

95. The draft resolution's great length diverted attention from the serious human rights violations in Bosnia and Herzegovina and, by failing to name the party guilty of committing heinous atrocities in that country, it lacked focus. Genocide had been committed in Bosnia and Herzegovina, but no concrete call was included to stop it. The draft resolution was also less than firm in what it proposed to do with regard to the search for missing persons.

96. His delegation disagreed with the assessment of the contribution of certain personalities, who had been unable to come up with a practical

solution to the problem and had, indeed, tried to impose unacceptable formulations that would reward the aggressors for their crime of ethnic cleansing with forcibly acquired land.

97. Operative paragraph 4 apportioned guilt to all parties and that did not square with the facts. Operative paragraph 6 was vague and dangerous in that it accused all parties, including the victims of the conflict, of nurturing "ultranationalism", which in the case of the Muslims simply suggested that they were fostering Islamic fundamentalism.

98. Operative paragraph 9, while acknowledging the positive actions taken by local authorities of the Republic of Bosnia and Herzegovina against ethnic cleansing, appeared to imply that the central Government of that country was not doing anything of the kind.

99. Mr. HASHIM (Bangladesh) said that there were serious flaws in the formulation and content of a number of paragraphs of the draft resolution. In preambular paragraph 11, gratitude had been expressed to certain persons who, from the outset, had gone against the principles of the Charter of the United Nations and international law and the letter and spirit of all relevant United Nations resolutions by trying to appease the aggressors and legitimize the fruits of their aggression. Their efforts had been criticized around the world, most recently in the call by the European Parliament for the resignation of one of the leading negotiators.

100. Operative paragraphs 4 and 6 placed the victims and the aggressors on an equal footing, and his delegation took exception, in particular, to the reference to "ultranationalists" in operative paragraph 6. It could see no reason why the Bosnian Serbs should not be clearly identified as the perpetrators of the grossest human rights violations.

101. For the reasons he had mentioned, his delegation would abstain on the resolution and had become a sponsor of another draft resolution E/CN.4/1994/L.84, which did justice to the terrible tragedy.

102. Mr. KAMAL (Pakistan) said that, despite many positive elements, the draft resolution did not identify the aggressor. The attempt to create a better balance by adding the words "all sides" was inappropriate, because that did not tally with the situation on the ground in Bosnia and Herzegovina, which had been the victim of external aggression and occupation. His delegation thus objected to operative paragraphs 4, 6 and 7, which placed the blame for human rights violations on all sides. All the Special Rapporteur's reports made it crystal clear who the aggressor was.

103. His delegation would abstain if there were a vote on the draft resolution, but would join a consensus in the hope of ensuring the adoption of three other draft resolutions on the situation of human rights in Bosnia and Herzegovina, the situation of human rights in Kosovo and the rape and abuse of women in Bosnia and Herzegovina. By adopting those three draft resolutions, the Commission would rectify the imbalance in the current one.

104. Mr. BROTODININGRAT (Indonesia) said that his delegation would support the draft resolution, despite its reservations about operative paragraphs 4 and 6, which placed all the parties to the conflict, victims and aggressors alike, on an equal footing.

105. Mr. LEBAKINE (Acting Secretary of the Commission) said that the resolution was considered to be within the scope of perennial activities. Resources would, therefore, be provided from within existing provisions for the Economic and Social Council mandates under section 21 (Human Rights) of the approved programme budget for the biennium 1994-1995.

106. Draft resolution E/CN.4/1994/L.80, as orally revised, was adopted.

The meeting rose at 12.55 p.m.